

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: James N. Humenik, et. al.	Date: January 15, 2007
Serial Number: 10/605,430	Examiner: Brian R. Gordon
Filed: September 30, 2003	Group Art Unit: 1743
Title: Microfabricated Fluidic Structures	IBM Corporation D/18G, B/321, Zip 482 2070 Route 52 Hopewell Junction, NY 12533-6531

RESPONSE TO RESTRICTION REQUIREMENT

Hon. Commissioner for Patents and Trademarks
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

In response to the Office communication dated December 18, 2006, please consider the following:

The Examiner in the aforementioned Office communication has required restriction under 35 U.S.C. § 121 to the following inventions:

Group I – Claims 1-9, 13-17, and 21-23, drawn to a method of reacting a reagent;

Group II – Claims 10-12, drawn to a method for reagent delivery;

Group III – Claims 18-20, drawn to a method for the delivery of non-homogeneous materials; and

Group IV – claims 24-26, drawn to a method the delivery of reagents.

Applicants hereby provisionally elect, with traverse, Group I – Claims 1-9, 13-17 and 21-23, for prosecution on the merits. Moreover, Applicants hereby withdraw from consideration the claims forming Group II (Claims 10-12), Group III (Claims 18-20) and Group IV (Claims 24-26), as being drawn to a non-elected invention.

According to the Office communication, the inventions are distinct because the inventions between Groups I, II, III and IV are unrelated and the inventions are independent or distinct under MPEP §802.01 and §806.06 because the different inventions have different modes and effects to achieve different objectives. Thus, according to the communication, there would be a serious burden on the examiner if restriction is not required (MPEP §808.02).

Applicants respectfully submit that the requirement for restriction between the claims of Group I, II, III and IV is improper and should be withdrawn. The claims now pending in this application, namely Claims 1-26, relate to microfabricated fluid structures and do not fit the criteria for restriction. All the claims now pending in this application should be examined at this time since there would be no hardship or extra burden on the Examiner. Accordingly, it is respectfully requested that the restriction requirement be withdrawn.

Notwithstanding the foregoing arguments, Applicants hereby elect to prosecute the claims in Group I, consisting of Claims 1-9, 13-17 and 21-23; and withdraw from consideration the claims forming Group II (Claims 10-12); Group III (Claims 18-20); and Group IV (Claims 24-26), as being drawn to non-elected inventions, without prejudice to the Applicants' right to file Divisional, Continuation or Continuation-in-Part Patent Applications for the withdrawn claims.

In view of the foregoing, early and favorable consideration of the elected claims is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Rosa Suazo', written over a horizontal line.

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